

Addressing Workplace Bullying and Harassment in Canada, Research, Legislation, and Stakeholder Overview: Profiling a Union Program

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Introduction

At first glance a picture of the understanding and efforts to address workplace bullying in Canada seems to emerge in a disconnected way. However upon closer exploration a good deal is happening across the country, although there remains a sense of separateness with respect to legislation and policies nationwide. With so much attention on research into the dynamics and health harming behaviours of workplace bullying globally, in order to understand the Canadian landscape with respect to this topic, we need to understand something of the geographical, historical, and demographic trends.

We begin by examining research into the topic of workplace bullying taking place across the country, however, we need to also consider our language and definitions for a common understanding of this current global phenomenon.

Legislation in federal and provincial jurisdictions will be highlighted as well as some of the initiatives the various stakeholders have taken on. This will include non-government organizations, the academic arena and labour/trade unions. One particular program, Working Toward Bully-Free Workplaces, developed by the Nova Scotia Government and General Employees Union (NSGEU) will be noted throughout the paper as it adds to the known research by offering a validated and evaluated program.

The paper will touch on initiative and legislation or pending legislation in two areas closely aligned with workplace bullying, domestic violence in the workplace, and mental health and workplace violence in the form of bullying. While strategies for dealing with workplace bullying need to address both culture and policy, we need to consider what strategies to utilize beyond tougher sanctions. One which is advocated by the NSGEU looks at restorative workplaces programming.

Finally, can Canada as a nation offer a coherent response to promote a cultural shift and provide congruent policy setting nationally, while respecting provincial, regional, and ethnic diversity? To manage effective change we need a clear vision for change, along with skills, incentives, resources, and an action plan. With any one of these factors missing or inarticulated we will experience confusion, anxiety, false starts, frustration, and change that is very gradual; all conditions which will perpetuate the problem.

1. The national picture

Canada is a vast country with immense sparsely populated areas. It is the second largest country in the world by land mass with a population of approximately 34.5 million people. With a global population of seven billion, Canada has only .5% of the world's population!

Geographical regions also have particular cultural identities. The west: British Columbia; the prairies: Alberta, Saskatchewan, and Manitoba; the east: Ontario and Quebec; the Atlantic region: New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland & Labrador; and the north: a vast area encompassing the three territories of Nunavut, Northwest Territories, and Yukon.

For 58.8% of the population English is cited as the official language while French, mostly in Quebec, is the official language for 21.6%. According to 2006 census data other languages accounted for 19.6%. Ethnic groups are comprised as follows; British Isles origin 28%; French origin 23%; other European 15%; Amerindian 2%; other, mostly Asian, African, and Arab 6%; mixed background 26%. Demographically it is estimated that by the year 2031, 28% of Canadians will be foreign born. The map (Figure 1) presents a picture of the leading ethnicity according to census data nationwide. Understanding the geography, ethnicity, and history as well as demographic trends are necessary to appreciate the scale of research of the topic being undertaken, as well as possible remedies.

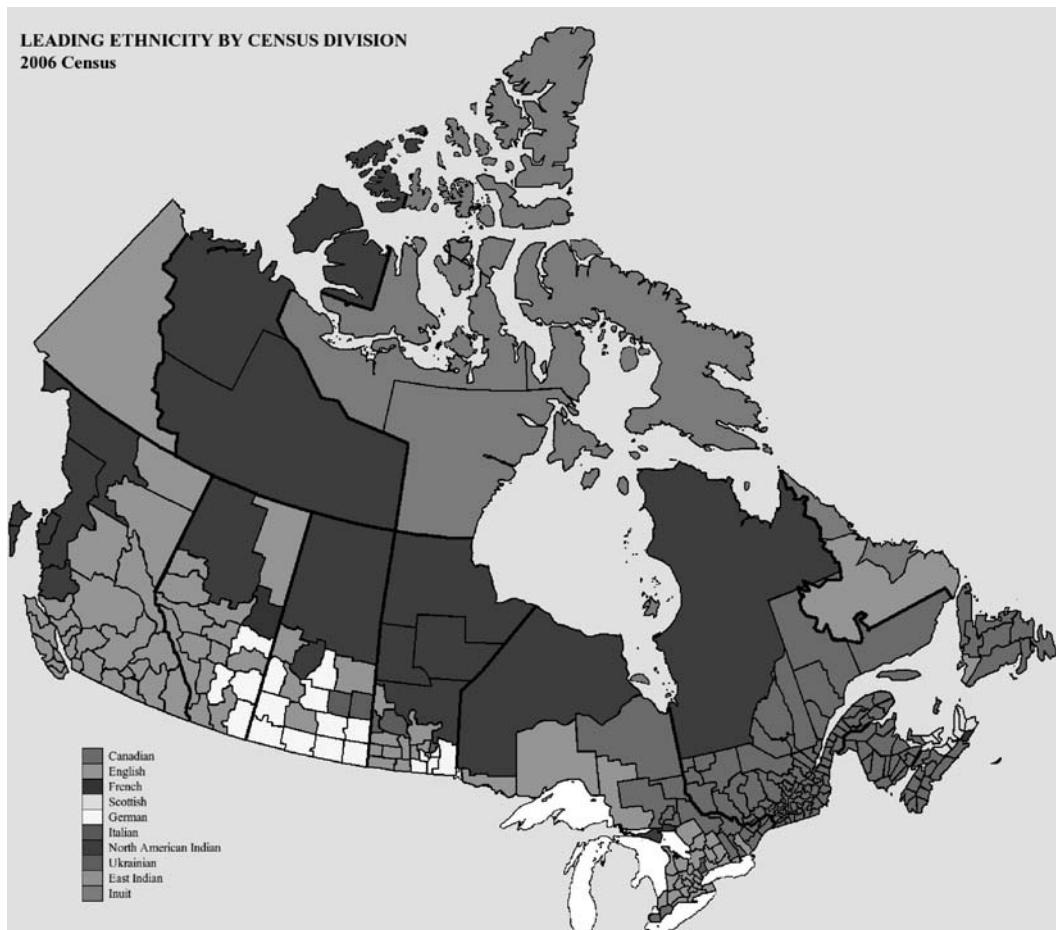
On the world stage the perception of Canadians is one of relaxed and tolerant multiculturalism. Canadian people are perceived to be friendly, polite, fair, respectful, and quick with an apology. Canada is a young country celebrating less than 150 years as a nation, with the first European English, Scottish, Irish, and French explorers and settlers arriving in the mid 1600s. Those who identify themselves as Canadian according to ethnicity are largely the descendants of those early pioneers.

Ironically our early history is one of struggle and conflict. The people who came here often sought to escape harsh economic and political conditions and found themselves dealing with extreme physical conditions. However those who came to escape oppression also became the oppressors. Today Canada's indigenous, or First Nations, population comprise only about 4% of the total population, which also includes Metis (French, Scottish, Irish, and First Nations) and Inuit in the north.

Only recently has there been an apology and attempts at reparation for what many are reluctant to name as the genocide¹ inflicted on the First Nations of this country. This was wrought through residential school programs which operated from 1876 to 1996 and saw native children uprooted from family, culture, and language. A public apology was offered June 11, 2008 not only by Prime Minister Stephen Harper on behalf of the Government of Canada, but also by the leaders of all the other parties in the Canadian House of Commons.

¹Residential Schools: Canada's program a form of genocide says Truth and Reconciliation Chair, 2/18/2012, http://www.huffingtonpost.ca/2012/02/17/residential-schools-canada-genocide_n_1285371.html (accessed November 28, 2012).

Figure 1: Leading Ethnicity According to Census Data²



Another example in 1988³ saw former Prime Minister Brian Mulroney formally apologize to Japanese Canadians who experienced detention during World War II. Three quarters of those interred from the British Columbia coast were born or naturalized Canadian citizens. Today in Nova Scotia news articles are describing abuse and neglect at the Nova Scotia Home for Coloured Children with calls for a public inquiry.⁴

This preface to a discussion of workplace bullying in Canada provides a context to understand predisposing and precipitating influences as well as perpetuating factors. Malcolm Gladwell⁵ draws on the term *social inheritance* to describe how behavioural and emotional patterns are passed on, emphasizing the role of cultural legacies.

² Ethnic origins of people on Canada, http://en.wikipedia.org/wiki/Ethnic_origins_of_people_in_Canada (accessed November 28,2012).

³ the Internment Camp s of Japanese Canadians in Canada during world War II, November 2007, <http://timeinmoments.wordpress.com/2007/11/06/the-internment-camps-of-japanese-canadians-in-canada-during-world-war-ii/> (accessed November 29, 2012).

⁴ Read it on Global News: Former N.S. Home for Colored Children directors not opposed to abuse inquiry, <http://thechronicleherald.ca/novascotia/149056-timeline>

⁵ Malcolm Gladwell presents an explanation of how the habits of highly successful people pale in importance to where, when and how you were raised. He elaborates on the part played by opportunity and legacy, and what he terms social

1.a. Research in Canada

The Canadian Safety Council has reported that 75% of victims of bullying leave their jobs and that workplace bullying is four times more common than sexual harassment or workplace discrimination. This implies significant monetary and human costs. “Given the growing evidence that bullying represents by far the most prevalent form of violence and harassment, an emphasis in financial terms on bullying is, therefore, justifiable.”⁶

Economic or monetary costs are incurred directly through loss of wages and added expenditures, primarily of health care and medical treatment. Along with loss of wages due to sickness and absence, there is premature retirement and replacement costs in connection with high turnover (recruitment and training). Grievance and litigation and associated compensation costs, damage to equipment and production or productivity resulting from errors and accidents are also costly; with reduced performance and productivity (lack of added value to product and service) as well as loss of public goodwill and reputation.

Human costs refers to the pain, fear and general reduction in quality of life for both the targetted individual as well as potential grief experienced by family and closest friends. Jacqueline Power, an assistant professor of management at the University of Windsor's Odette School of Business, has spent years researching bullies in the workplace. She says 40 per cent of Canadians have experienced one or more acts of workplace bullying at least once a week for the last six months.⁷

Across the country academics in various educational institutions, ad hoc groups, business interests, unions and governments are struggling to understand, define and address issues associated with bullying, both in schools and in the workplace. The research includes ideas and philosophies on remediation and elimination of various forms of workplace mistreatment. Dr. Michael Leiter, of Acadia University in Nova Scotia has been engaged in a long term study of workplace civility. He considers workplace mistreatment to include behaviours of incivility, abuse, bullying, violence and social undermining. While these behaviours may have a common underlying mechanism, dimishment of another person or persons, all result in harm. This paper focuses on bullying in the workplace.

1.b. Language and definitions for a common understanding

A critical starting point in examining workplace bullying is a clear definition. It is often termed psychological or personal harassment to distinguish it from harassment which occurs under the protected grounds of the Canadian Human Rights Act; where European language generally refers to moral harassment. The Canada Safety Council⁸ defines bullying as an abuse of power, a violation of an employee's rights and a betrayal of the trust that should exist between an employer and employee. Bullying is a trespass of an individual's freedoms, a denial of the right to earn a living and, eventually, the destruction of an individual.

inheritance. Malcolm Gladwell, *Outliers, the Story of Success*, Back Bay Books, Little, Brown and company, New York, 2008.

⁶ Helge Hoel, Kate Sparks & Cary L. Cooper. *The Cost of violence/Stress at Work and the Benefits of a Violence/Stress-Free Working Environment Report* Commissioned by the International labour organization (ILO) Geneva. January 1, 2001, http://www.ilo.org/safework/info/publications/WCMS_118190/lang--en/index.htm

⁷ <http://www.cbc.ca/news/canada/windsor/story/2011/12/06/wdr-cbsa-bullying-johnston.html>

⁸ Canada Safety Council <https://canadasafetycouncil.org> (Accessed November 24, 2012).

The terms bullying and harassment are often used interchangeably, so what constitutes psychological harassment at work? Attempt at clarification is outlined in Table 1.

Table 1: Differences between harassment and workplace bullying⁹

Harassment	Workplace bullying
Often physical, e.g. contact and touch in various forms, intrusion into personal space and damage to possessions	Almost exclusively psychological may become physical over time
Tends to focus on the individual because of what they are focus on (e.g. gender, race, disabled, etc.)	Individuals are targeted particularly if they are competent, skilled or popular
Harassment is based on discrimination of protected grounds under human rights, e.g., gender, race	Although bullies are deeply prejudiced, behaviour is on the basis of personal attributes, such as competence (envy) and popularity (jealousy)
May consist of a single incident	Rarely a single incident but a pattern of behaviour increasing in intensity and duration.
The person being harassed knows almost straight away they are being harassed	The person being bullied initially may not realise they are being bullied
Harassment often reveals itself through use of recognised offensive and stereotypical vocabulary	Tends to fixate on trivial criticisms and false allegations of underperformance
Often an element of possession such as in stalking	The impetus is control and subjugation
Harassment may be for peer approval, bravado, macho image, i.e. more visible to others	Not only the target but witnesses may not recognize the bullying behaviour
May occur in and out of work	The bullying originates in the context of the workplace
Perceives an easy target	The target is seen as someone who must be controlled

A consensus definition used by the NSGEU defines bullying as health harming behaviour, which is repeated and persistent. It is a pattern of behaviour that targets an individual in order to undermine, offend, or humiliate such that it results in feelings of personal diminishment that over time can result in physical, emotional and behavioural symptoms.¹⁰ There is also a power imbalance even if the target and person who bullies are of the same rank. The target feels powerless to successfully protect or defend him/herself against the willful or negligent infliction of emotional distress. In this definition it does not

⁹ adapted from Bully On Line, <http://www.bullyonline.org/workbully/bully.htm#Difference%20between%20bullying%20and%20harassment> (accessed November 30, 2012).

¹⁰ a more complete definition of terms can be found on the NSGEU website: nsgeu.org.

matter if someone intended to do harm, rather the focus is on the harm that is done and what will correct or remedy the situation.

The NSGEU and several jurisdictions consider that “Workplace bullying encompasses both intentional and unwitting behaviours (words, gestures, images, actions, and failure to act) which, over time, humiliate, demoralize, or terrorize an employee or group of employees, undermine their targets’ credibility and effectiveness, and contribute to a disrespectful or hostile work environment.”¹¹ In other words it removes the onus on proving an intent to do harm, but instead considers the harm that occurs. However, we can see the challenges which arise in a country of great regional, historical, and economic diversity to arrive at a national policy.

2. Legislation in Canada

To what extent are existing protections against grounds-based harassment in human rights legislation contained within the new psychological harassment labour standard?¹² Must there be a malicious intent on the part of the perpetrator(s) of psychological harassment? How does psychological harassment differ from employee discipline or certain management techniques? What degree or type of harm must be caused by the psychological harassment? What are an employer’s obligations in the face of a situation of psychological harassment? These are some of the questions which arise in the course of determining legislation.

The impetus for legislation in Canada and the need for workplace policies was underscored when on April 6, 1999; a former employee of OC Transpo in Ottawa shot four employees dead, and then took his own life. This employee had been the target of workplace bullying. Among the recommendations of a coroner’s inquest was that the definition of workplace violence should include not only physical violence but also psychological violence such as bullying, mobbing, teasing, ridicule or any other act or words that could psychologically hurt or isolate a person in the workplace.

At that time no jurisdiction in Canada required employers to have a workplace violence prevention program. For that reason, the OC Transpo jury recommended that federal and provincial governments enact legislation to prevent workplace violence and that employers develop policies to address violence and harassment.

Real impetus for change across the country came in 2004 when Quebec legislation recognized the importance of protecting employees from *any* form of violence, whether verbal, psychological or physical in the workplace.

2.a. Canadian Charter of Human Rights and Freedoms

Enacted in 1982, The *Canadian Charter of Rights and Freedoms*¹³ guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. Signed April 17, 1982, The Charter of Rights and Freedoms not only prohibits discrimination based on race or gender, it protects mobility and language rights and enshrines the presumption of innocence.

¹¹ *Research Team on Workplace Violence and Abuse, Muriel McQueen Fergusson Centre for Family Violence, University of New Brunswick, <http://www.unbf.ca>*

¹² http://www.hrsdc.gc.ca/eng/labour/employment_standards/fls/research/research14/page06.shtml

¹³ Department of Justice, (Website Dec. 1, 2012) http://laws-lois.justice.gc.ca/eng/Const/Const_index.html

Balancing the rights of legislatures and courts which give the federal and provincial parliaments limited powers to override court decisions, the charter requires governments to justify all legislation in light of human rights.

Protection provided by all federal and provincial legislation is limited because the Canadian Bill of Rights, the Canadian Human Rights Act, and all provincial human rights codes are only legislation; which made it possible to repeal them. It was not until the advent of the *Canadian Charter of Rights and Freedoms* that human rights in Canada were protected in the Constitution. The Charter has been influencing Canadian law, jurisprudence, and the drafting of constitutions around the world, and is considered the constitutional document most emulated by other nations.

2.b. Canadian and Provincial Human Rights Acts

In Canada, federal, provincial, or territorial governments protect the individual's rights and freedoms. The territorial governments may also legislate to protect human rights, since the federal government has delegated those powers to them. Federal and provincial laws protect people from harassment related to work, and include the Canadian Human Rights Act, Provincial Human Rights laws, and the Canada Labour Code.

The Canadian Bill of Rights (1960) was the first federal law that specifically set out fundamental human rights for Canadians until 1977 when Parliament passed the *Canadian Human Rights Act*.¹⁴ The purpose of the Act is to ensure equality of opportunity and freedom from discrimination particularly in the areas of employment, housing and commercial premises; and applies not only to the federal government but also to the private sector in matters that are regulated directly by the federal government. The Canadian Human Rights Act and many provincial laws apply to harassment based on prohibited grounds which include; race, national or ethnic origin, colour, religion, age, sex, marital status, family status, disability, pardoned conviction, or sexual orientation.

However, an estimated one in ten workers have experienced some form of workplace bullying, and specific federal and provincial labour laws have been slow to respond. "When faced with harassment that does not fit into the human rights definition, employees are often left with only their own organization's harassment policies for defence."¹⁵ There is, however, a long tradition in Canada of labour legislation and policy designed for the promotion of the common well-being through the encouragement of free collective bargaining and the constructive settlement of disputes.

Employers are required by the *Canada Labour Code*¹⁶ to develop their own policies and guidelines on harassment. These policies should include definitions of harassment and procedures for dealing with complaints. Policies should also protect employees from harassment by nonemployees e.g., clients, customers, outside contractors and other members of the public.

2.c. Occupational Safety Acts

Canada's *Occupational Health and Safety Act*¹⁷ now called the *Workplace Occupational Health and Safety Act* is intended to make clear the employer responsibility

¹⁴ Canadian Human Rights Commission (Website Dec., 2012) http://www.chrc-ccdp.ca/about/human_rights_act-eng.aspx

¹⁵ Article by Jennifer McCarthy, *Family Service Canada Consultant. Website Dec. 2012*
http://www.familyservicesc.ca/_files/solutions_newsletters/solutions35.pdf

¹⁶ Canada Labour Code (Website Dec 2012) <http://laws-lois.justice.gc.ca/eng/acts/L-2/>

¹⁷ <http://www.labour.gov.on.ca/english/hs/laws/index.php>

to provide a safe and healthy workplace. While it specifically lays out the conditions for physical safety requirements in workplaces and what is outlines what is necessary to protect the physical health of workers; the issue of psychological safety is often an implied one.

According to recent reports prepared by Dr. Martin Shain (University of Toronto) for the Mental Health Commission of Canada (MHCC)¹⁸ and referred to as the Shain Reports, Psychological Safety and the Law in the Canadian Workplace, a dramatic legal evolution is transforming Canadian workplaces. For the first time in Canadian history, employers are confronted with a legal duty to maintain not only a physically safe workplace, but also a *psychologically safe* work environment. A psychologically safe workplace as considered one in which every practical effort is made to avoid reasonably foreseeable injury to the mental health of employees.

2.d. Provincial legislation on workplace harassment/bullying

Across the country there is a need to align federal and provincial legislation while respecting the distinctions of the various provinces and territories. To date five provinces in Canada have specific legislation requiring employers to seek to provide workplaces free of harassment. See Appendix B. Provincial legislation according to province: No longer limited to human rights-related harassment, the term is broadly defined in these laws. Key points of provincial legislation are outlined.

Quebec

Particular attention is paid to Quebec, the first North American jurisdiction to introduce provision into its labour standards law in June 2004. The Quebec Labour Standards Act states: “Every employee has a right to a work environment free from psychological harassment. Employers must take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it.”¹⁹

Quebec legislation defines psychological harassment at work as:

“...any vexatious (meaning troublesome or annoying) behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.”²⁰

The Quebec government is precise in describing the scope and meaning of its new provisions on psychological harassment; it defines *vexatious behaviour* as humiliating or abusive behaviour that lowers a person’s self-esteem or causes him/her torment. The behaviour also exceeds what the person considers to be appropriate and reasonable in the performance of his/her work. Most analysts maintain that the existence of psychological harassment is determined by the effects on the target who experiences the harassment rather than on the intent of the perpetrator.

¹⁸ The Shain reports, *Stress at Work, Mental Injury and the Law in Canada (2009)* .

¹⁹ Archived - Rights, Respect and Dignity: Interface of Labour Standards and Human Rights Legislation (Website November 16, 2012) www.labour.gc.ca
http://www.hrsdc.gc.ca/eng/labour/employment_standards/fls/research/research14/page10.shtml#ftn78

²⁰ Ibid.

While the employer cannot guarantee that there will never be any psychological harassment they must prevent any psychological harassment situation through reasonable means; and act to put a stop to any psychological harassment as soon as they are informed of it, by applying appropriate measures, including necessary sanctions.

The Quebec legislation through the Labour Standards Commission enumerates a number of examples of how harassment is expressed and the statutory definition also affirms harassment that undermines either the psychological or physical integrity of an employee. The Commission notes that psychological harassment must not be confused with the normal exercise of the employer's management rights, in particular his right to assign tasks and his right to reprimand or impose disciplinary sanctions.

Various options exist for different groups of employees. Unionized employees may file a grievance since the legislation reads protection against psychological harassment into all collective agreements regulated pursuant to Quebec labour law. Non-unionized employees may file complaints with the Labour Standards Commission, which is then required to investigate the complaint. If no settlement is reached between the parties, the complaint may be referred to the "Commission des relations du travail" (similar to a labour board) for adjudication. Public service employees not governed by a collective agreement file complaints with the Public Services Commission.

Given the definition of psychological harassment in the Quebec legislation, all problems of grounds-based harassment, currently protected in human rights legislation, would also constitute problems of psychological harassment. Where psychological harassment constitutes grounds-based harassment employees have a choice of pursuing a human rights complaint or complaining through the labour standards process. Quebec legislation on psychological harassment was designed to emphasize on the importance of prevention. That explains why the obligations set forth in the Labour Standards Commission fall on the employer's shoulders instead of on the harasser himself, with the ultimate objective being to provide a work environment free of psychological harassment.

It is worth noting that in June 2005, one year following the new law coming into effect, the Labour Standards Commission reported receiving 2500 complaints of psychological harassment, and that less than 1 per cent of these complaints were considered frivolous.

Saskatchewan

The government of Saskatchewan proclaimed legislation expanding the definition of harassment under *The Occupational Health and Safety Act, 1993* effective October 1, 2007. Stating that Saskatchewan people have a right to healthy and safe work environments free from harassment, under the Act, employers are required to take reasonable steps to prevent and stop harassment that arises out of, or is connected to, a worker's employment. The new definition of harassment includes language to address personal harassment in the workplace, such as abuse of power and bullying. The legislation also allows for the appointment of an independent adjudicator to hear appeals arising from harassment complaints.

The legislation states that "Every employer shall ensure, insofar as is reasonably practicable, that the employer's workers are not exposed to harassment with respect to any matter or circumstance arising out of the workers' employment."²¹ The employer's duty

²¹ Opcit.

extends to harassment that involves a matter or circumstance arising out of the worker's employment and includes incidents occurring in the workplace as well as incidents outside the workplace if the event or circumstances arise out of the worker's employment.

WorkingWell is an employers' guide for dealing with harassment as defined in The Occupational Health and Safety Act, 1993 & Regulations. As in Quebec, Saskatchewan has termed bullying *harassment*. The legislation defines harassment as; "any inappropriate conduct, comment, display, action, or gesture by a person: that either adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated..."²²

To constitute harassment there must be; (a) repeated conduct, comments, displays, actions or gestures must be established; or (b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker must be established. As in the Quebec legislation harassment can exist even where there is no intention to harass or offend; and harassment does not include anything that falls within legitimate management rights which are outlined in the act. Although it explicitly states that managerial actions must be carried out in a manner that is reasonable and not abusive.

Saskatchewan legislation also clarifies situations that do not constitute harassment such as: physical contact necessary for the performance of the work using accepted industry standards, conduct which all parties agree is inoffensive or welcome and conflict or disagreements in the workplace that are not based on one of the prohibited grounds

Implementation began with the creation of a new harassment prevention unit within the Occupational Health and Safety Division of Saskatchewan Labour. The new unit was to focus on enforcing the anti-harassment legislation and educating workplaces on the new definition and complaint process. When an investigation determines that harassment has taken place, the employer must take corrective action to meet the requirements of section 36(1) of the OHS Regulations. In deciding what they will be done to stop, prevent and deter harassment, options may include action against persons in the workplace and third parties, including customers, clients and contractors. An employer's action will be defensible if it is based on a fair and competent investigation.

In terms of intervention the employer must ensure that the action is effective in stopping harassment and preventing its recurrence; is effective in protecting the complainant or others from reprisal; protects the privacy of the complainant and the harasser as much as possible; does not go against the collective agreement or any worker's employment contract; and that any discipline imposed on a worker is appropriate. Employers should not fail to take the action necessary to stop the harassment because they fear the trouble and expense that may result from defending the decision.

Ontario

On April 20, 2009, the Ontario government introduced Bill 168 in the legislature. The legislation amended the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 (the *OHSA*)²³ with respect to violence and harassment in the workplace. That act came into effect on June 15, 2010, and Ontario's legislation broadly defines workplace violence, as *including the actual, attempted, or threatened use of physical force that could injure a*

²² <http://www.lrws.gov.sk.ca/working-well-guide>

²³ http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2181

worker. Workplace harassment defined in Bill 168 is similarly worded with Quebec and Saskatchewan and relies on the wording of reasonable behavioural that is known or ought reasonably to be known to be unwelcome.

The act states that an employer shall, prepare a policy with respect to workplace harassment; and review the policies as often as is necessary, but at least annually; and the policies shall be in written form and shall be posted at a conspicuous place in the workplace. An employer shall develop and maintain a program to implement the policy with respect to workplace harassment; an employer shall provide a worker with information and instruction that is appropriate for the worker with respect to workplace harassment; include measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor; and set out how the employer will investigate and deal with incidents and complaints of workplace harassment; The remedies available are those available under Occupational Health and Safety Regulations. Ontario's new law extends beyond harassment and like the federal law, also will require antiviolenace policies and programs.

What is unique about Ontario's legislation is that the policies and program must also include measures to deal with *domestic violence* that may erupt in the workplace. Bill 168 says that "if an employer ought reasonably to be aware, that domestic violence may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker."

Ontario's law also contains new disclosure requirements where there is a risk of violence from a person with a history of violent behavior. This obligation will exist if the worker can be expected to encounter such a person in the course of his or her work and may therefore be exposed to the risk of physical injury. The law does not contain guidance on how such persons are to be identified but says that an employer should not disclose more confidential information than is reasonably necessary to protect the worker from physical injury. Ontario employers' existing policies will need to be reviewed and refined to meet the requirements of this new law.

Manitoba

Manitoba has made changes to its Workplace Health and Safety Act²⁴ effective February 1, 2011. Those changes include protection from workplace bullying, termed 'harassment.' It should be noted that the Regulation only provides protection for employees in the conduct of their work in the workplace, stating that objectionable conduct or comment has to be directed at a worker in the workplace.

The legislation amends the definition of harassment as objectionable conduct that creates a risk to the health of a worker; or severe conduct that adversely affects a worker's psychological or physical well-being. Conduct is objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry, or place of origin. It is severe if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

In the definition harassment conduct includes a written or verbal comment, a physical act or gesture or display, or any combination of them. The definition overlaps with the

²⁴ http://www.gov.mb.ca/ctt/invest/busfacts/workforce/s_h_act.html

definition of discrimination, based on personal characteristics, under human rights legislation. As well, the legislation also speaks to the issue of management rights. Reasonable conduct of an employer or supervisor in respect of the management and direction of workers or the workplace is not harassment. The regulation requires all employers in Manitoba to develop and implement a written harassment prevention policy; and ensure that employees comply with the policy.

The harassment prevention policy must be developed in consultation with a workplace's safety and health committee or the safety and health representative or the employees. Whichever applies, include a specific definition of harassment that is spelled out in the regulation; and include content statements and basic procedures for making a complaint. The policy must be posted in a prominent location.

British Columbia

The British Columbia Resource Professional Association stated in May 2008, "workplace harassment and conflict is on the rise, causing increasing dissatisfaction among employees and reduced productivity in the workplace."²⁵

British Columbia is the most recent and fifth province to pass legislation on workplace bullying. Amendments to the province's *Workers' Compensation Act* came into effect on July 1, 2012. The new legislation amends the act's definitions of harassment and injury, and enables workers suffering from a mental disorder resulting from *significant work-related stressors* to seek compensation through WorkSafe BC. Previously, WorkSafe BC claims were limited to workplace accidents or severe emotional stress resulting from a traumatic event or series of stressors arising out of and in the course of the worker's employment. Now, the legislation specifically names bullying and harassment as a work-related stressor.

The legislation also introduces a requirement for employers with more than 10 employees to establish and implement a workplace harassment policy that includes measures for workers to report incidents of harassment and procedures for investigating such incidents. This also means employers could now be on the financial hook for emotionally harmful work environments. To qualify for compensation, the employee must suffer from a mental disorder that has been diagnosed by a psychiatrist or psychologist.

3. Stakeholders

Given the diversity of the Canadian landscape a large number of researchers and organizations have sprung up, often working independently to understand and address workplace bullying.

3.a. Non-government organizations, ad-hoc groups

Research on bullying shows the need to protect children and youth who experience forms of physical or mental violence, injury or abuse at the hands of their peers. While this paper does not address issues around school related bullying, Appendix B. provides an overview of several recognized areas of research and support for children and youth in Canada. Provincially and regionally other *ad hoc* and special interest groups may also be working to address the problems associated with bullying.

²⁵ Psychological Harassment and Bullying in the Workplace, April 22, 2008, Pam Bowman.

3.b. Academic

A significant amount of bullying research in Canada is focused on children and youth, e.g., PrevNet. However, a literature review for this paper with respect to workplace bullying showed conflicting information around statistics. For example, who bullies more males or females; who are the bullies supervisors or peers; and what are the financial workplace costs associated with bullying, are all worthwhile areas of inquiry. This inconsistent data is due in part to extrapolating American and European, particularly the United Kingdom, research data and making inferences about bullying in Canada. Another explanation as indicated earlier, is the significant diversity within the provinces, territories and regions in Canada.

A further challenge in academic research emerges due to lack of baseline and control data in order to do comparison studies. However, a number of individuals affiliated with several Canadian Universities are researching areas related to workplace bullying. Many of these individuals are also members of the International Association for Workplace Bullying and Harassment (IAWBH). Following the world conference on workplace bullying in Copenhagen, June 2012 there was an expressed interest in creating a network of Canadians researching and working in the area of workplace bullying.²⁶ At this date this remains a loose *ad hoc* group.

3.c. Labour/trade unions

With approximately 30%, or 4 million Canadian workers belonging to a union an interest from within Canada's unions on issues around workplace bullying has been recognized; however, these largely deal with ensuring workers know their rights with respect to legislation and collective agreements. Historically the role of the union is to advocate, arbitrate and assist members through the grievance process.

One study carried out by the U.S. based Workplace Bullying Institute on unions' role in workplace bullying, January 2011, showed about three-quarters of targets still believe that unions have a positive role to play. However the most important finding from this small sample survey is that 24% do not trust their unions any more than their employers.²⁷ The study presents an explanation for these results;

- Union officers often rise in the ranks based on their ability to fight and be adversarial in order to win victories for the unions' members.
- Unions are also organizations where the bureaucratic mindset can take over.
- Unions have been co-opted by partnership talk with employers which may be viewed as becoming submissive, e.g., employers threaten to move a business offshore if concessions are not made.
- When bullying is member-on-member, a union may become paralyzed and feel compelled to defend both the abusive and abused member. In reality, the responsibility is to represent, never to defend.

The article concludes by saying if unions are to regain the trust of their members, the above issues must be challenged honestly and reversed.

²⁶ It is worth noting that only two unions were represented at this international conference in Copenhagen, one from the UK and the NSGEU from Nova Scotia.

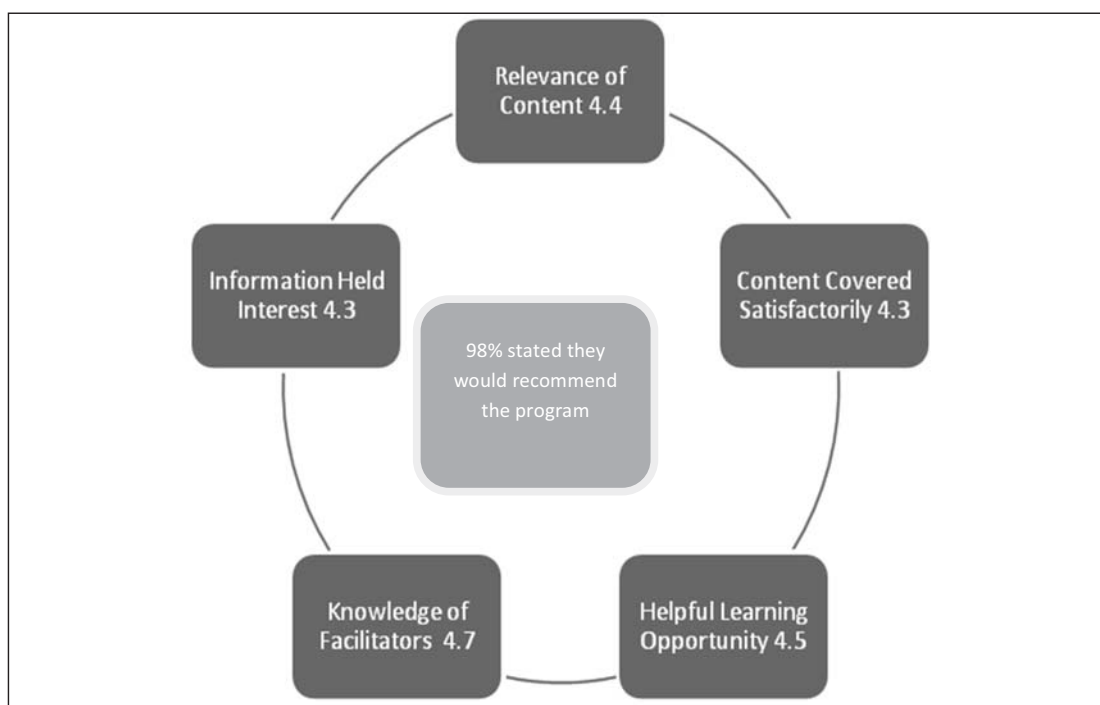
²⁷ <http://www.workplacebullying.org/2011/01/30/union-instant-poll/>

The Nova Scotia Government and General Employees Union (NSGEU) believes in the responsibility of the union to address the problem of workplace bullying as a form of violence. This is underscored by Nova Scotia's Occupational Health and Safety Act which states, "Every employer has a duty to provide a safe and healthy workplace" is an anchor to the program.

NSGEU's interest in the phenomenon of bullying and defining bullying as a form of workplace violence emerged from stories by workers about how they were being treated on the job. At the same time the definition and legislation dealing with psychological harassment in the workplace, and the release of respectful workplace policies was gaining momentum. The NSGEU made a significant commitment to its membership to address workplace bullying and publicly launched its Working Toward Bully-Free Workplaces initiative in September 2010.

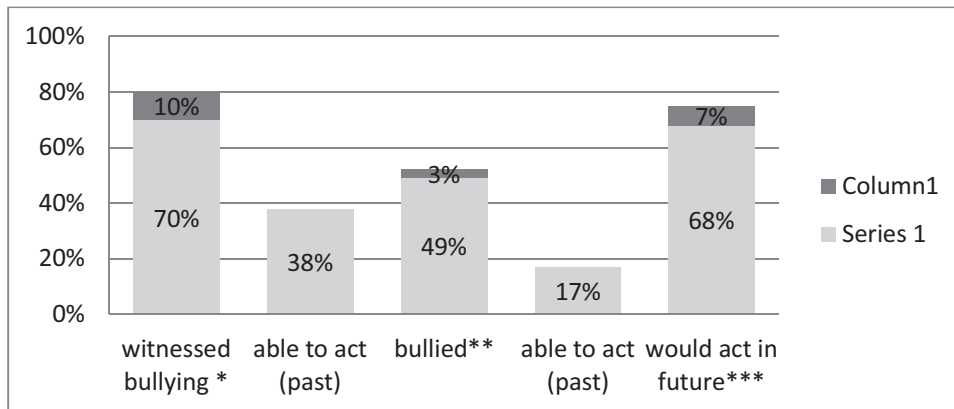
A unique feature of this program is the evaluation and employer feedback as shown in Figure 2 on program satisfaction for 2010-2011. The Program as developed was intended primarily as delivery of information; however we quickly realized that some participants were experiencing, perhaps for the first time, validation of their experiences.

Figure 2: Program Satisfaction, 2010



With both quantitative and qualitative data gathered some key concepts emerged: a) the pervasiveness of the problem throughout the employment sector, b) the significant impact on individuals and workplaces, and c) the need for appropriate interventions and movement of the program in the direction of restorative practices; which will be discussed further.

Figure 3: Quantitative Data – change as a result of attending program



*70-80 % of respondents indicated witnessing bullying.

** 49-52 % indicated being bullied, however many people choose not to answer this question, leading us to speculate this number is actually higher.

*** 68% responded they would now take action as a result of attending this program; an additional 7% state that they might take action, depending on what was at stake.

The mandate of the NSGEU remains that the program will be delivered to any employer in the province who requests it, and this commitment includes all employees in the workplace. Delivery has included other unions e.g., Canadian Union of Postal Employees (CUPE), Nova Scotia Nurses Union (NSNU), Nova Scotia Teachers Union (NSTU), Licensed Practical Nurses of Nova Scotia (LPNNS), New Brunswick Union of Public and Professional Employees (NBUPPE), and the National Association of Public Employees (NAPE), as well as non-unionized employees and their employers.

4. Direction and initiatives

Bullying is often called psychological harassment or violence due to the impact on a person's mental health and sense of well-being. The personalized, focused nature of the assault destabilizes and disassembles the target's identity, ego, strength, and ability to rebound from the assaults.²⁸ The longer the exposure to stressors like bullying, the more severe the psychological impact and unabated stress compromises both a target's physical and mental health. Distinguishing between psychological safety and psychological harm is shown in Table 2.

²⁸ <http://www.workplacebullying.org/individuals/impact/mental-health-harm/>

Table 2: Distinguishing between psychological safety and psychological harm

Psychological Safety	Psychological Harm
<ul style="list-style-type: none"> • Confidence to take risks at work <ul style="list-style-type: none"> – Be supported in efforts by supervisor and coworkers; – show appreciation for efforts – tolerate some setbacks when things become challenging. • Employees feel free to express opinions; <ul style="list-style-type: none"> – confident they can contribute and not be criticized for speaking candidly <p>http://www.workengagement.co</p>	<ul style="list-style-type: none"> • Being humiliated, intimidated, shouted at, threatened, bullied or constantly criticized. • It can also mean being controlled by someone, ignored or left alone. <p>http://www.actagainstharm.org/our-stories/psychological-harm/index.html</p>

In Canada concern on dealing with workplace bullying is not happening in isolation and is not disconnected from interconnected initiatives such as domestic violence in the workplace and the Canadian Mental Health Association. Additionally organizations such as the NSGEU recognizes that stricter policies and tougher sanctions may prove a deterrent in some situations but it can also contribute to more passive or subtle forms of bullying that will still leave targets physically and emotionally injured.

4.a. Domestic violence in the workplace

Bullying does not remain confined to the workplace and may transfer both into the home and from the home into the workplace. Interventions against domestic violence at work need to be considered and made consistent and explicit with existing Occupational Health and Safety Legislation. a report to the International Labour Congress suggests that “the workplace is no safe haven from violence with a considerable number of people exposed to physical assault.... However, across industrial sectors a large fraction of workers are exposed to psychological violence or bullying, In addition spillover from domestic abuse is increasingly seen as a workplace problem.”²⁹

4.b. Canadian Mental Health Association and workplace bullying-National Standard of Canada on Psychological Health and Safety in the Workplace

Over the last 20 years there have been significant developments in both law and a number of scientific disciplines with regard to defining the need for, and characteristics of, what has been termed the psychologically safe workplace. A psychologically safe

²⁹ Helge Hoel, Kate Sparks & Cary L. Cooper. The Cost of violence/Stress at Work and the Benefits of a Violence/Stress-Free Working Environment Report Commissioned by the International labour organization (ILO) Geneva. January 1, 2001 (54).

workplace, for these purposes, is defined as one that is the result of every reasonable effort being made to protect the mental health of employees.

Where previously only extreme management actions that caused catastrophic psychological harm created risk of legal liability; now, common workplace practices that create foreseeable risks of mental injury can lead to legal liability.

The Mental Health Commission of Canada (MHCC) has championed the development of a National Standard on Psychological Health and Safety in the Workplace.³⁰ It is a voluntary standard intended to provide systematic guidelines for Canadian employers that will enable them to develop and continuously improve psychologically safe and healthy work environments for their employees. It is anticipated that the standard will align with existing relevant standards or those currently under development.

The MHCC reports explain how Canadian courts and tribunals are increasingly intolerant of workplace factors that threaten psychological safety; ordering management to change workplace habits that threaten employees; and imposing dramatically increased financial punishments for transgressions. Following from the Shain reports is a compelling call to action for employers and policy makers.

What is termed a *perfect storm* of liability for employers who fail to maintain a psychologically safe workplace is building strength in the proceedings of courts and tribunals in seven different Canadian legal contexts: human rights, labour law, employment contracts, employment standards, occupational health and safety, workers compensation, and torts and damages (common law).

On January 16, 2013 Canada became the first country in the world to outline a voluntary national standard for Canadian workplaces. The National Standard of Canada titled Psychological Health and Safety in the Workplace³¹ - prevention, promotion and guidance to staged implementation is designed to help organizations and their employees improve workplace psychological health and safety. Developed in collaboration with the Canadian Mental Health Association and the Canada Standards Association this standard is presented as a journey for continual improvement, focused on promoting employees' psychological health and preventing psychological harm due to workplace factors.

It is estimated that Canada loses 51.8 billion in economic costs related to mental health with 69% of Long Term Disability Claims related to mental health issues (CMHA 2013). Further presenteeism (being physically present but not engaged) costs 1.5 times more than absenteeism. The workers' Compensation Board of British Columbia (WCB-BC) has expanded coverage for work-related mental disorders and an estimated 65% of Nova Scotia Human Rights complaints are related to the workplace. In the rationale for introducing the standard we can see there is a strong relationship between workplace bullying as a particular form of psychological harassment and as a mental health concern.

A number of workplace influences affect mental health at work and risk factors include work overload, unreasonable work pace, high demand/low control, conflicting tasks, and perceived unfairness. Protective factors include self-efficacy, skill discretion, decision authority, social support, civility and respect as well as unique human responses.

³⁰ http://www.mentalhealthcommission.ca/English/Pages/workplace_guide.aspx

³¹ <http://www.csa.ca/cm/ca/en/news/article/national-standard-of-canada-psychological-health-and-safety-in-the-workplace>

Thus workplace mental health requires both strategies to increase protective factors and reduce risk factors.

Psychological Health and Safety are demonstrated in the way that people regularly interact, to how working conditions and management practices are structured and how decisions are made and communicated. This requires the promotion of workers' psychological well-being as well as prevention of harm to workers' mental health in negligent, reckless or intentional ways.

The workplace culture serves to protect against harm or can increase risk factors. In respectful workplace cultures we find greater trust amongst workers and their employers resulting in higher levels of commitment to the organization. This is reflected in productivity gains, greater staff retention, higher levels of job satisfaction, lower levels of job related stress and less conflict between work and family responsibilities.

In workplaces where bullying behaviour is a cultural norm we find the following; escalation of incivility, high staff turnover, low morale, high levels of informal and formal complaint and grievances, inconsistent application of policies and rules, along with poor performance and reprisal of those who protest.

In underscoring the importance of a healthy and respectful culture we note that policies and procedures on their own do not address or prevent bullying. Leadership that demonstrates skills and confidence in addressing this issue are also required. High level commitment to making positive changes has a big influence on the culture of workplaces.

Leaders, whether in a supervisory or managerial role or workers' who are informal leaders, have significant input into the culture of an organization and can therefore demonstrate and model the standard of behaviour that is expected. As an aspect of corporate social responsibility this is demonstrated by the ability to be conscious of and notice incidents of subtle bullying, the ability to speak up constructively in that moment, and take complaints of bullying seriously.

It is leaders who are called upon to create a cultural shift toward psychologically healthy workplaces. However, effectiveness in this area requires an understanding of some common definitions contained in Canadian Labour practices e.g. Duty of Care, good faith, frivolous and vexatious, what is meant by reprisal free, and what we mean when we cite confidentiality; that is we provide clear information while acknowledging the right to privacy, dignity and respect of the individual. A psychologically healthy workplace requires demonstration of both tangible and 'soft' skills. Tangible or concrete skills are demonstrated through policy, key performance indicators, transparency, role clarity and job facts: While soft skills include relationship skills of negotiation, conflict resolution, problem solving, listening and role modeling.

A key reason why people do not return to work after illness or disability, or remain at work is how they have been treated. (Sullivan 2008) In other words do they feel they have been treated fairly? Research indicates that people may not like a decision however if they believe it has been handled in a fair and just way they are more willing to accept the outcome.³² A consideration in addressing both workplace bullying and workplace mental health is the perception of justice and fairness. As perceptions of injustice increase so does workplace bullying³³.

³² <http://www.beyondintractability.org/bi-essay/principles-of-justice> (April 2013).

³³ *Bullying and harassment in the Workplace, Developments in theory and Research*, Stole Einersen, Helge Hoel, Dieter Zapf, Gary Cooper, Sept 2012 accessed <https://play.google.com/books/reader>, April 2013.

Perceptions of Justice stem from an understanding of fairness and responsibility. In asking, “Is it fair?” we want to know that conduct is honest, respectful and of goodwill in the personal interactions or relationships between the parties. One way that fairness and justice is made visible or tangible is through policy, so that when we ask “who is responsible?” we want assurances about what are the processes, who makes the decisions and decides outcomes, and the how and why around decision making are explained.

Unions which have traditionally been seen to be about fairness and justice have recently come under scrutiny as being irrelevant or redundant. However, it can be reasoned there is renewed relevancy for a union role to:

- Demonstrate shared concern for worker well-being
- Create harassment and bully-free workplaces
- Help workers navigate through complaint and grievance processes
- Provide expertise to create accommodations that work
- Work with employee(s) and management to problem-solve and;
- Provide constructive solutions that also repair relationships
- Provide an ongoing resource

Strategies commonly used to deal with workplace bullying include; mediation, anti-bullying curriculum, self-esteem for bullies, assertiveness training for targets, more punitive discipline, anger management training for bullies and zero tolerance policies. However, short term, one off or single interventions will not be sustainable in preventing workplace bullying in the long term. The NSGEU Working Toward Bully-Free Workplaces Program fosters asking questions to help find solutions:

- What do you need from the workplace to be successful in your job? Eliciting information about the workplace culture is a key determination in whether bullying will occur
- How do you want future workplace issues to be addressed? Having a clear policy helps to define situations, is solutions based, and provides options for the earliest intervention
- For your contribution towards your success at work, what will you commit to? Participants are encouraged to think about their self-care, informal strategies at work as well as formal avenues provided through policy.

The NSGEU also advocates for Restorative Workplaces Practices. Relationships are relevant at all levels of human interaction; interpersonally, socially, institutionally and nation to nation. Therefore a restorative approach is a relational approach. Relationships are central between human beings and the world and can be positive/harmful or unhealthy/healthy. This approach is central; to recognizing, understanding and addressing harmful relationships. Our human rights and inequality and power disparity are relational, with our ability for respect and dignity grounded in understanding others.

Restorative practices in the workplace focuses on conditions in relationship that enable social equality; therefore the approach is constructive and forward thinking. The approach is more than settling interpersonal conflict, and more than alternative dispute resolution. Restorative practices work to establish and understand all perspectives as a prelude to problem solving, conflict resolution and repairing harm. It offers processes capable of supporting sustainable accommodation as a way of relating rather than an

outcome or entitlement. Quality of relationship requires mutual respect, concern, care and dignity at work thereby transforming social relationships.

In using a restorative approach, the principles of practice are relationship focused and inclusive, participatory, democratic and deliberative. The approach brings together the 'right' people that is, the people who need to come together. Comprehensive and holistic it is not only incident focused but considers the context and causes in order to be remedial and forward-focused.

Developing understanding of what happened, the effects among the people involved and to determine what is needed to move forward, a restorative conference on a continuum of informal to formal is organized to facilitate understanding among the participants (those affected). The purpose is also to understand why what happened matters; in other words what are the systemic issues. Addressing presenting systemic issues will increase perceptions of fairness while identifying concerns that need further clarification or attention. Understanding is necessary before reaching agreement on what needs to happen in order to move forward and to repair the harm.

According to the Nova Scotia Restorative Justice – community, university, research alliance (NSRJ-CURA) restorative practices not only prevents re-offending but serves to build capacity to deal with future concerns.

4.c. Restorative practices

A challenge is ensuring justice in any undertaking to redress workplace bullying. Perceptions of justice have been identified as a core value in most organizations and workplaces with significant negative consequences in employee behaviour, attitudes, and health when there is a perceived lack of objectivity or justice. Facets of justice concern the fairness of the outcome or the decision made following a complaint process: that there is a lack of bias in the investigation process of bullying and equal representation for the parties involved and the personal interactions between the parties. Interpersonal factors consider: did the parties conduct themselves with honesty, respect, and goodwill and were explanations provided about the hows and whys around decision making and outcomes.

While people who use bullying behaviours in the workplace need to be accountable the needs of those who have been harmed (targets) are often overlooked even when perpetrators are sanctioned. Not addressing the needs of those who have been harmed can leave them continuing to feel invisible. The emerging field of restorative practices gives those most affected by conflict the tools and principles needed to resolve problems and rebuild relationships. A Restorative Practices in the Workplace Program provides a means to resolve conflict while encouraging and supporting those who have caused harm to acknowledge the impact of what they have done, while offering an opportunity to repair the harm. It offers those who have been harmed the opportunity to have their harm acknowledged and amends made.

While a traditional approach looks at defining bullying and investigating measures of frequency and intensity with stronger policies as a guide to sanctions, in restorative practices based on restorative justice the focus is on understanding the harm that is done and how it can be repaired. Progressive discipline and sanctions remain an aspect to repair harm and reintegrate individuals into communities of work, while resolving the harm done prevents the behaviour from being repeated. Table 3, illustrates restorative practices and needs of stakeholders in the workplace.

Table 3: Restorative practices and needs of stakeholders in the workplace

Victims/Targets	Offenders	Community (Workplace)
<ul style="list-style-type: none"> • information • truth-telling/honesty • empowerment • restitution or vindication 	<ul style="list-style-type: none"> • accountability • encouragement to change/transform • encouragement & support to integrate into community • need for restraint 	<ul style="list-style-type: none"> • attention to concerns • opportunity to build community • mutual accountability • encouragement to show concern for one another • foster conditions that promote healthy communities/ workplaces • experience fair process

Conclusion

Based on the available Canadian research and the NSGEU experience employers appear eager to understand this workplace concern and want to know how to address this issue through appropriate policy, procedures, and best practices. Many employers have respectful workplace policies with a caveat stating that harassment and bullying in any form will not be tolerated. A clear and concise respectful workplace policy should outline all those qualities which are desirable in the workplace and that workplaces want to strive towards. However, violence in the workplace, harassment, and bullying policies should clearly articulate those things which are not desirable and that we want to move away from.

In Canada federal and provincial legislative provisions on occupational health and safety in the workplace are arguably broad enough to extend to both physical and psychological threats to health and safety at work. Increasingly, health and safety laws and/or regulations are being amended to clearly articulate that protection against workplace violence includes both physical and psychological threats to employee well-being. Interestingly, one Canadian survey on workplace violence found a greater likelihood of physical violence from outside sources and a higher incidence of psychological violence from within organizations.³⁴ While employers need to be attentive to the risks of violence in all of its manifestations, different policy responses may be needed in response to the specifics of the particular violence involved.

A common strategy is to focus on the occupational health and safety dimensions of the phenomenon of workplace violence, rather than its human rights dimensions. However, there appears to be a growing consensus that occupational health and safety regulations and laws should make explicit their concern with both physical and psychological well-being and safety at work. One identified weakness of exclusive reliance on occupational health and safety regulations is that they do not provide sufficient recourse where psychological harassment is occurring but has not caused an occupational injury.

³⁴ Canadian Initiative on Workplace Violence, *The National Labour Survey, Executive Summary* (Toronto: March 2000), online: Canadian Initiative for Workplace Violence.

One of the major reasons for the Quebec reform was repeated identification of this gap in protection in the government reports and consultations leading up to the reform. Individuals, particularly non-unionized employees, experiencing non-discriminatory psychological harassment did not have an accessible legislative mechanism for obtaining redress. Central to the legislative reform was a method of comprehensive, accessible individual protection from psychological harassment in workplaces across Quebec. To that extent, it was understood as a baseline labour standard to be assured to all individuals.

In terms of human rights, as well as legislative and labour standards reform, one possible change would be a revision of human rights legislation on harassment to eliminate the requirement that it be linked to a ground of discrimination. It might be more useful to consider increasing their scope to encompass fundamental individual rights and freedoms.

In reference to the dealing with stress/violence intervention programs offered within organizations to deal with the consequences of workplace bullying, Hoel, et al state, "At the same time an analytical approach as opposed to statistical generalisation would allow looking at similar problems in different contexts and from different angles in order to analyse to what extent results tend to converge."³⁵ These same principles could be applied to Canadian provincial and national jurisdictions.

Holding to Canadian diversity in many respects there appears to be lack of clear guidelines and lack of systematic data collection based on Canadian information. With the lack of systematic evaluation, the potential success of interventions may be missed due to lack of such assessment. Finally, most law reform initiatives and research reports on workplace violence emphasize the need to be attentive both to individual wrongdoing and to systemic or organizational dimensions which reinforce risks of workplace violence. However, there is also widespread agreement that preventive workplace strategies are essential to support the right to integrity and the right to dignity at and through work.

Resources:

<http://www.csa.ca/cm/ca/en/news/article/national-standards-of-canada-psychological-health-and-safety-in-the-workplace>

www.BullyingCanada.ca

www.bullying.org

Canada Charter of rights and Freedom http://laws-lois.justice.gc.ca/eng/Const/Const_index.html

Canadian Human Rights Commission <http://www/chrc-ccdp.ca>

Canada labour code <http://laws-lois.justice.gc.ca/eng/regulations/SOR-86-304/FullText.html>

Canada Safety Council: <https://canadasafetycouncil.org>

Canada Safety Council: www.safety-council.org/info/OSH/bullies.htm

Ontario Ministry of labour <http://www.labour.gov.on.ca/english/hs/pubs/index.php>

www.PREVNet.ca

Centre for Occupational Health and Safety <http://www.ccohs.ca>

<http://www.workplaceviolence.ca/legislation/>

<http://www.workplace-violence.info>

ns.ca/lae/healthandsafety/pubs.asp

³⁵ Helge Hoel, Kate Sparks & Cary L. Cooper. the Cost of violence/Stress at Work and the Benefits of a Violence/Stress-Free Working Environment Report Commissioned by the International labour organization (ILO) Geneva. January 1, 2001 (54) http://www.ilo.org/safework/info/publications/WCMS_118190/lang--en/index.htm.

Statistics Canada <http://www.statcan.gc.ca>

<http://alis.alberta.ca>

Canadian Nurses Union,

http://www.nursesunions.ca/sites/default/files/Bullying_Position_Statement.pdf

Canadian Institute of Health Research <http://www.cihr-irsc.gc.ca/e/45838.html>

C.N. Centre for Occupational Health and Safety <http://www.smu.ca/cn>

Workplace Bullying Institute <http://www.workplacebullying.org>

<http://www.bullyonline.org/workbully/canada.htm>

<http://bullyinworkplace.com/2010/03/13/canada-takes-on-workplace-bullies/>
www.nsgeu.ca

Valerie Cade, Bully Free at Work. www.bullyfreeatwork.com

www.mebntalhealthworks.ca/wti/understanding_needs

<http://www.jfo.org.uk/campaign/country/ca.htm#>

<http://www.beyondintractability.org/bi-essay/principles-of-justice> (April 2013)
sullivan-painresearch.mcgill.ca/ieq.php

Brotheridge, CM, and Lee, RT (2005). Impact of work-family interference on general well-being: A replication and extension. *International Journal of Stress Management*, 12 , 203-221.

Brotheridge C.M. and Lee R.T., "When prey turns predatory: Workplace bullying as predictor of counteraggression / bullying, coping, and well-being" *European Journal of Work and Organizational Psychology*. 2006, 00 (0): 1-26.

Cowie, Helen, et al. Measuring workplace bullying. *Journal of Aggression and Violent Behaviour*. 7 (2002) 33-51.

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Gladwell, Malcolm. *Outliers, the Story of Success*, Back Bay Books, Little, Brown and company, New York, 2008.

Helge Hoel, Kate Sparks & Cary L. Cooper. *the Cost of violence/Stress at Work and the Benefits of a Violence/Stress-Free Working Environment Report* Commissioned by the International labour organization (ILO) Geneva. January 1, 2001

http://www.ilo.org/safework/info/publications/WCMS_118190/lang--en/index.htm

Namie, Dr. Gary & Dr. Ruth *The Bully at Work what you can do to stop the hurt and reclaim your dignity on the job*. <http://www/workplacebullying.org>

APPENDICES

Appendix A. Legislation by province



The following table is adapted from *The Canadian Initiative on Workplace Violence*, copyright 2010,

<p><u>FEDERAL Legislation</u></p> <p>Relevant Statutes: Canada Labour Code, R.S.C. 1985, c. L-2 [‘CLC’] Canada Occupational Health and Safety Regulations, S.O.R./86-304[‘COHRS’]</p> <p>Websites: www.labour.gov.on.ca www.ohrc.on.ca (Ontario Human Rights Commission)</p>	<p>Workplace Violence Definition: ... “any action, conduct, threat or gesture of a person towards an employee in their workplace that can reasonably be expected to cause harm, injury or illness to that employee.” (COHRS, s. 20.2)</p> <p>Bill C-451 - An act to prevent psychological harassment in the workplace in Canada Bill C-451, an act to prevent Psychological Harassment and workplace bullying has passed its first reading in the house of commons in Canada in September 2003. Designed to amend the Canadian Labour code it did not pass final reading in 2004</p>
<p>PROVINCIAL Legislation</p>	<p>Workplace Violence Definition:</p>
<p><u>British Columbia</u></p> <p>Relevant Statutes: Workers Compensation Act, SBC 2002, C. 56 Occupational Health and Safety Regulations, B.C. Reg 296/97</p>	<p>... attempted or actual exercise of physical force by a person other than a worker, so as to cause injury to a worker, and includes any threatening statement or behaviour which causes a worker to reasonably believe he/she is at risk.” (OHSR, s. 4,27). New legislation came into effect July 2012.</p>

<p>[‘OHSR’]</p> <p>Websites: http://www.worksafebc.com/</p>	
<p><u>Alberta</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, R.S.A. 2000, cO-2 Occupational Health and Safety Code, Part 27 Occupational Health and Safety Code [‘Code’] sections 389-392</p> <p>Websites: http://employment.alberta.ca</p>	<p>... “the threatened, attempted or actual conduct of a person that causes or is likely to cause physical injury.” (Code s.1)</p>
<p><u>Saskatchewan</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, R.S.A. 2000, cO-2 Occupational Health and Safety Code, Part 27 Occupational Health and Safety Code [‘Code’] sections 389-392</p> <p>Websites: http://www.labour.gov.sk.ca/</p>	<p>... “the exercise of physical force by a person against a worker in a workplace that causes or could cause physical injury to the worker, or an attempt to exercise physical force against a worker in a workplace that could cause physical injury to the worker” (Regs, s.37)</p> <p>Workplace Harassment Definition:... “inappropriate conduct, comment, display, action or gesture based on race, creed, religion, colour, sex, sexual orientation (or other protected grounds) that adversely affects the worker's psychological or physical well-being; or constitutes a threat to the worker’s health or safety. Must be repeated conduct, or single incident that causes lasting harmful effects.” (OHSA, s 2(1); s. 2(3))</p>
<p><u>Manitoba</u></p> <p>Relevant Statutes: Workplace Safety and Health Act (C.C.S.M. c.W210) Workplace Safety and Health Regulation (Parts 8-11) [‘WSHR’] The Domestic Violence and Stalking Act (C.C.S.M. c. D93)</p> <p>Websites: http://www.gov.mb.ca/labour/</p>	<p>... “means (a) the attempted or actual exercise of physical force against a person; and (b) any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used...” (WSHR, s.1)</p> <p>Domestic Violence Definition: ... “ an intentional, reckless or threatened act or omission that causes bodily harm or property damage; an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or property damage; conduct that reasonably, in all the circumstances, constitutes psychological or emotional</p>

	<p>abuse; forced confinement, and sexual abuse.” (Subsection 2(1.1))</p> <p>Workplace Harassment Definition: “...behaviour of a person, either by repeated conduct, comments, displays, actions or gestures, or by a single serious comment, display, action, gesture or occurrence of conduct, that is (i) unwelcome, vexatious, hostile, inappropriate or unwanted, (ii) based on race, creed, religion, skin colour, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, or (iii) an improper use of the power or authority inherent in the person’s position, and threatens the health or safety of the worker, endangers a worker’s job or threatens the economic livelihood of the worker, undermines the worker’s job performance or negatively interferes with the worker’s career in any other way, adversely affects the worker’s dignity or psychological or physical integrity, or results in a harmful workplace for the worker.” (OHSR, s. 2(1); s. 2(3))</p>
<p><u>Ontario</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, [R.S.O. 1990, Chapter 0.1]</p> <p>Websites: www.labour.gov.on.ca www.ohrc.on.ca (Ontario Human Rights Commission)</p>	<p>...“ workplace violence is defined as (1) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker; (2) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or, (3) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.”</p> <p>Workplace Harassment Definition: ...“ as engaging in a course of vexatious comment or conduct against a worker, in a workplace – behaviour that is known or ought reasonably to be known to be unwelcome.”</p> <p>Domestic Violence Definition: ...“If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker”.(2009, c. 23, s. 3)</p>

<p><u>Quebec</u></p> <p>Relevant Statutes: An Act Respecting Labour Relations, R.S.Q., c. N-1.1 [‘LS Act’] An Act Respecting Occupational Health and Safety, R.S.Q., c. 2-1.1 [‘OHS Act’] Regulation Respecting Occupational Health and Safety, c. S-2.1, 2.19,01</p> <p>Websites: www.csst.qc.ca</p>	<p>Workplace violence is not defined</p> <p>Psychological Harassment Definition: ...“ means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions, or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee”.</p> <p>Language written into collective agreements of unionized employees</p>
<p><u>New Brunswick</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, S.N.B. 1983, c. 0-0.2 [‘OHSA’] Code of Practice for Working Alone Regulation - Health and Safety Act. N.B., Reg. 92-133</p> <p>Websites: http://www.worksafenb.ca/</p>	<p>No definition regarding workplace violence at this time.</p>
<p><u>Prince Edward Island</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, R. S.P.E.I. 1988, c. 0-1.01 [‘OHSA’] General Regulations, P.E.I. Reg. EC180/87 [‘GR’]</p> <p>Websites: http://www.wcb.pe.ca/</p>	<p>...“ the threatened, attempted or actual exercise of physical force that may cause injury to a worker, and includes any threatening statement or behaviour that gives a worker reasonable cause to believe that he or she is at risk of injury.” (GR. s. 52.1)</p>
<p><u>Nova Scotia</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, S.N.S. 1996. c. 7 Violence in the Workplace Regulations, N.S. Reg. 209/2007</p>	<p>...”threats, including threatening behaviour, that gives an employee reasonable cause to believe that he or she is at risk of physical injury, or conduct (or attempted conduct) that endangers the physical health or physical safety of an employee.” (VWR, s. 2)</p> <p>Nova Scotia is working on domestic violence in the workplace as well as workplace mental health initiatives, however these are voluntary</p>

<p>Websites: www.gov.ns.ca/enla/ohs</p>	
<p><u>Newfoundland Labrador</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, R. S.N.L. 1990, c. 0-3 [‘OHSA’]</p> <p>Websites: http://www.whscc.nf.ca/</p>	<p>No legislation regarding workplace violence at this time.</p>
<p><u>Nunavut</u></p> <p>Relevant Statutes: Nunavut Act. S.C. 1993, c 28 * The Nunavut Act. adopts as law ordinances of the NWT regarding Occupational Health and Safety</p> <p>Websites: http://www.gov.nu.ca/</p>	<p>No legislation regarding workplace violence at this time.</p>
<p><u>Northwest Territories</u></p> <p>Relevant Statutes: Safety Act. R.S.N.W.T. 1988, c. S-1 [‘SA’]</p> <p>Websites: http://www.gov.nt.ca/</p>	<p>No legislation regarding workplace violence at this time.</p>
<p><u>Yukon</u></p> <p>Relevant Statutes: Occupational Health and Safety Act, R.S.Y. 2002, c. 159 [‘OHSA’]</p> <p>Websites: http://www.gov.yk.ca/</p>	<p>No legislation regarding workplace violence at this time.</p>

Appendix B. Organizations dealing with children and youth

<p>Bullying.org is dedicated to increasing the awareness of bullying and to preventing, resolving and eliminating bullying in society. Founder Bill Belsey</p>	<p>Bullying.org is a collaborative project that has three goals which are to help people understand that;</p> <ul style="list-style-type: none"> • they are not alone in being bullied, • being bullied is not their fault, and • there are many positive alternatives to dealing with bullying.
<p>BullyingCanada was created on December 17, 2006 by Katie Neu, and Rob Frenette, in order to provide support, information and resources on the topic of bullying.</p> <p>BullyingCanada also provides a 24/7 telephone support service: 1-877-352-4497 or by email: support@bullyingcanada.ca</p>	<p>Vision is to ensure there are proper laws in place to protect and help victims, bystanders, bullies, parents, school officials and the community at large to understand, deal with, handle and end bullying. We are the first youth created anti-bullying website in Canada</p>
<p>PREVNet (Promoting Relationships and Eliminating Violence Network) is Canada's authority on research and resources for bullying prevention. PREVNet is an umbrella network of 65 leading Canadian research scientists, more than 90 graduate students, and 52 youth-serving organizations.</p> <p>Launched in 2006 with the Networks of Centres of Excellence, PREVNet's mission is to stop bullying in Canada and to promote safe and healthy relationships for all Canadian children and youth. Led by Scientific Co-directors Dr. Debra Pepler of York University and Dr. Wendy Craig of Queen's University. PrevNet.ca</p>	<p>Calling for a National Strategy. The PREVNet partnership model grew out of Canadians' concerns about bullying and commitment to address these problems effectively. PREVNet is building a diversity of partnerships to ensure that consistency in education, assessment, intervention, and policies pertaining to bullying and to respond to the experiences and needs of all Canadian children and youth regardless of diversity such as gender, disability, ethno-racial-cultural background, sexual orientation, and economic disadvantage. The PREVNet partnership model brings expert researchers and national organization together to address issues related to bullying.</p>
<p>Children's Rights Canada has signed the United Nations Convention on the Rights of the Child. In Article 29, the Convention specifies that education shall be directed to: The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of the sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.</p>	<p>As a society, therefore, we must educate children to ensure they develop positive attitudes and behaviours and avoid using their power to bully or harass others. The UN Convention on the Rights of the Child also addresses the rights of children who are at the receiving end of bullying and harassment. Article 19 of the Convention states:</p>

	<p>Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</p>
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